



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of intent to initiate public scoping and prepare an Environmental Impact Statement for the Four Corners Power Plant and Navajo Mine Energy Project

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Intent to initiate public scoping and prepare an Environmental Impact Statement.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321-4347; the Council on Environmental Quality's (CEQ) regulations for implementing NEPA, 40 CFR Parts 1500 through 1508; and the Department of the Interior's (DOI) NEPA regulations, 43 CFR Part 46, the Office of Surface Mining Reclamation and Enforcement (OSM), Western Region (WR), Denver, Colorado, intends to prepare an Environmental Impact Statement (EIS). The EIS will analyze the impacts for several related actions. It will analyze impacts for the BHP Navajo Coal Company (BNCC) Proposed Pinabete Permit and for the Navajo Mine Permit Renewal, both of which are located on the Navajo Reservation in San Juan County, New Mexico. The EIS will also analyze the impacts for the Arizona Public Service Company (APS) Proposed Four Corners Power Plant (FCPP) lease amendment, located on the Navajo Reservation in San Juan County, New Mexico, and associated transmission line rights-of-way renewals for lines located on the Navajo and Hopi Reservations in San Juan County, New Mexico and Navajo, Coconino and Apache Counties in Arizona. The EIS will also analyze impacts for the Public Service Company of New Mexico (PNM)

transmission line rights-of-way renewal associated with the FCPP and located on the Navajo Reservation in New Mexico. This Notice refers to these proposals collectively as the "Project." OSM is requesting public comments on the scope of the EIS and significant issues that should be addressed in the EIS.

DATES: This notice initiates the public scoping process. To ensure consideration in developing the draft EIS, we must receive your electronic or written comments by the close of the scoping period on [Insert date 60 days after the date of publication in the FEDERAL REGISTER]. At the scoping meetings, the public is invited to submit comments and resource information, and identify issues or concerns to be considered in NEPA compliance process.

We will host public scoping meetings where you may submit written and oral comments.

These open house public scoping meetings will be held at the following locations:

- Hotevilla, Arizona, on Thursday, August 9, 2012, from 3:00 p.m. to 7:00 p.m. at the Hotevilla Village.
- Cortez, Colorado, on Friday, August 10, 2012, from 5:00 p.m. to 9:00 p.m. at the Montezuma-Cortez High School.
- Burnham, New Mexico, on Saturday, August 11, 2012, from 9:00 a.m. to 1:00 p.m. at the Burnham Chapter House, Navajo Indian Reservation.
- Nenahnezad, New Mexico, on Monday, August 13, 2012, from 5:00 p.m. to 9:00 p.m. at the Nenahnezad Chapter House, Navajo Indian Reservation.
- Farmington, New Mexico, on Tuesday, August 14, 2012, from 5:00 p.m. to 9:00 p.m. at the Farmington Civic Center.
- Shiprock, New Mexico, on Wednesday, August 15, 2012, from 5:00 p.m. to 9:00 p.m. at the Shiprock High School.

- Durango, Colorado, on Thursday, August 16, 2012, from 4:00 p.m. to 8:00 p.m. at the Durango Public Library.
- Window Rock, Arizona, on Friday, August 17, 2012, from 5:00 p.m. to 9:00 p.m. at the Navajo Nation Museum.
- Albuquerque, New Mexico, on Saturday, August 18, 2012, from 11:00 a.m. to 3:00 p.m. at the Indian Pueblo Cultural Center.

Times, dates, and specific locations for these meetings will also be announced through the OSM WR Web site <http://www.wrcc.osmre.gov/FCPPEIS.shtm>, press releases, local newspapers, radio announcements and other media, at least 15 days prior to each event.

Hopi and Navajo interpreters will be present at meetings on the Hopi and Navajo Reservations.

If you require reasonable accommodations to attend one of the meetings, contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting.

ADDRESSES: Comments may be submitted in writing or by e-mail. At the top of your letter or in the subject line of your e-mail message, please indicate that the comments are “Four Corners-Navajo Mine EIS Comments.”

- E-mail comments should be sent to: fcppnavajoenergyeis@osmre.gov.
- Mail/Hand-Delivery/Courier: Written comments should be sent to: Marcelo Calle, OSM Western Region, 1999 Broadway, Suite 3320, Denver, Colorado 80202-3050

FOR FURTHER INFORMATION CONTACT: For further information about the Project and/or to have your name added to the mailing list, contact: Marcelo Calle, OSM Project Coordinator, at 303-293-5035. Persons who use a telecommunications device for the deaf (TDD)

may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

- I. Background on the Project.
- II. Background on the Four Corners Power Plant.
- III. Application for the Pinabete Mine Permit and the Navajo Mine Permit Renewal.
- IV. Alternatives and Related Impacts Under Consideration.
- V. Public Comment Procedures.

I. Background on the Project.

The purpose of the Project is to facilitate ongoing operations at the FCPP, and on BNCC's Navajo Mine Lease to provide for long-term, reliable, continuous, and uninterrupted base load electrical power to customers in the southwestern U.S., using a reliable and readily available fuel source. The Project proposes to accomplish this while complying with tribal trust responsibilities, both to support economic opportunities on Navajo Nation and Hopi tribal trust lands, and to help provide for economic development of the Navajo Nation and Hopi Tribe through lease and right-of-way revenues, royalties, tribal taxes and jobs. The EIS will address the direct, indirect, and cumulative impacts of these actions at the FCPP, the proposed Pinabete Permit area, and the existing Navajo Mine Permit area, including any connected Federal actions relating to operations on the Navajo Mine Lease and at FCPP.

At this time the Navajo Nation, Bureau of Indian Affairs (BIA), Bureau of Land

Management (BLM), U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), National Park Service (NPS), and U.S. Army Corps of Engineers (USACE) will cooperate with OSM in the preparation of the EIS. The USACE will use this public scoping as part of the Clean Water Act (CWA) Section 404, 33 U.S.C. § 1344, permitting public noticing process. The USACE will have material available on the proposed impacts to waters of the United States, and will accept comments during the meetings described below. This scoping process is intended to fulfill the USACEs' public meeting or hearing requirement for the proposed action.

OSM will conduct compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA Section 106) as provided for in 36 CFR 800.2(d)(3) concurrently with the NEPA process, including public involvement requirements and consultation with the State Historic Preservation Officer and Tribal Historic Preservation Officer. Native American tribal consultations will be conducted in accordance with applicable laws, regulations, and Department of Interior policy, and tribal concerns will be given due consideration, including impacts on Indian trust assets. Federal, tribal, state, and local agencies, along with other stakeholders that may be interested in or affected by the Federal agencies' decisions on the Project, are invited to participate in the scoping process and, if eligible, may request or be requested by OSM to participate as a cooperating agency.

Interested persons may view information about the proposed Project on our website at <http://www.wrcc.osmre.gov/FCPPEIS.shtm>; The website contains information related to the comment period during which persons may submit comments, and the locations, dates, and times of public scoping meetings.

As part of its consideration of impacts of the proposed Project on threatened and

endangered species, OSM will conduct formal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA), 16 U.S.C. § 1536, and its implementing regulations, 50 CFR Part 400. Formal consultation will consider direct and indirect impacts from the proposed Project, including operation of the FCPP, continuing operation and maintenance of existing transmission lines and ancillary facilities, and all mining and related operations within the Navajo Mine Lease.

In addition to compliance with NEPA, NHPA Section 106, and ESA Section 7, all Federal actions will be in compliance with applicable requirements of the Indian Business Site Leasing Act, 25 U.S.C. § 415; the General Right-of-Way Act of 1948, 25 U.S.C. §§ 323-328; the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. §§ 1201-1328; the CWA, 33 U.S.C. §§ 1251-1387; the Clean Air Act, 42 U.S.C. §§ 7401-7671q; the Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001-3013; and Executive Orders relating to Environmental Justice, Sacred Sites, and Tribal Consultation, and other applicable laws and regulations.

II. Background on the Four Corners Power Plant

The FCPP, located on tribal trust lands in the New Mexico portion of the Navajo Reservation, is a coal-fired electric generating station, which currently includes five units generating approximately 2,100 megawatts, and provides power to more than 500,000 customers. Nearly 80 percent of the employees at the plant are Native American. APS operates the FCPP, and recently executed a lease amendment (Lease Amendment No. 3) with the Navajo Nation to extend the term of the lease for the FCPP an additional 25 years, to 2041. Continued operation of the FCPP is expected to require several Federal actions, including:

- Approval from BIA of Lease Amendment No.3 for the FCPP plant site, pursuant to 25 U.S.C. 415. Lease Amendment No.3 has been signed by the Navajo Nation after Navajo Nation Council approval.
- Issuance by BIA of renewed rights-of-way , pursuant to 25 U.S.C. 323, for the FCPP plant site and its switchyard and ancillary facilities; for a 500 kilovolt (kV) transmission line and two 345 kV transmission lines; and for ancillary transmission line facilities, including the Moenkopi Switchyard, an associated 12 kV line, and an access road; (collectively the "Existing Facilities"). The Existing Facilities are located on the Navajo Reservation, except for the 500 kV transmission line which crosses both Navajo and Hopi tribal lands. The Existing Facilities are already in place and would continue to be maintained and operated as part of the proposed action. No upgrades to the transmission lines or ancillary transmission line facilities are planned as part of the proposed Project.
- Issuance by the BIA of renewed rights-of-way to PNM for the existing 345 kV transmission facilities. The transmission facilities are already in place, and will continue to be maintained and operated as part of the proposed action. No upgrades to these transmission lines are planned as part of the proposed Project.

The desired future operation of the FCPP plant site involves removing Units 1, 2, and 3 from service on or before 2014, installing pollution control upgrades on Units 4 and 5, and continued operation of the independent switch yard and transmission lines. This scenario would substantially reduce coal consumption and air emissions, and lower the power output of the plant to approximately 1,500 megawatts. The ash disposal area would expand in future years within the current FCPP lease boundary. There is no proposed change to the exterior boundary of the FCPP site, the switch yard, or any of the transmission lines and ancillary facilities as part of the

proposed actions.

III. Application for the Pinabete Mine Permit and the Navajo Mine Permit Renewal

Concurrent with the proposed FCPP lease amendment approval and renewed rights-of-way grant actions, BNCC proposes to develop a new approximately 5,600-acre permit area, called the Pinabete Permit. This proposed permit area lies within the boundaries of BNCC's existing Navajo Mine Lease, which is located adjacent to the FCPP on tribal trust lands on the Navajo Reservation. BNCC proposes to conduct mining operations on an approximately 3,100-acre portion of the proposed Pinabete Permit area. The proposed Pinabete Permit area would, in conjunction with the mining of any reserves remaining within the existing Navajo Mine Permit area (Federal SMCRA Permit NM0003F), supply low-sulfur coal to the FCPP at a rate of approximately 5.8 million tons per year. Development of the Pinabete Permit area and associated coal reserves would use surface mining methods and, based on current projected customer needs, would supply coal to FCPP for up to 25 years beginning in 2016. The proposed Pinabete Permit area would include previously permitted but undeveloped coal reserves within Area IV North of the Navajo Mine Lease, and unpermitted and undeveloped coal reserves in a portion of Area IV South of the existing Navajo Mine Lease. Approval of the proposed Pinabete Permit is expected to require several Federal actions, including:

- Approval by OSM of the new SMCRA permit.
- Approval by the BLM of a revised Mine Plan developed for the proposed maximum economic recovery of coal reserves.
- Approval of a Section 404 Individual Permit by the USACE for the impacts to waters of the United States from proposed mining activities.

- Approval of a Section 402 National Pollutant Discharge Elimination System (NPDES) permit or permit revision by the EPA.
- Approval by the BIA of a proposed realignment for approximately 2.8 miles of BIA 3005/Navajo Road N-5082 (Burnham Road) in Area IV South to avoid proposed mining areas.
- Approval or grant of permits or rights-of-way for access and haul roads, power supply for operations, and related facilities by the BIA.

In addition, OSM expects BNCC to submit a renewal application in 2014 for its existing Navajo Mine SMCRA Permit No. NM00003F. The EIS will therefore also address alternatives and direct, indirect, and cumulative impacts of the 2014 renewal application action.

IV. Alternatives and Related Impacts Under Consideration.

The proposed actions will be considered in a single EIS that will address alternatives and direct, indirect, and cumulative impacts of the Project..

Alternatives for the Project that are under consideration include:

- (a) the proposed actions described above;
- (b) a no action alternative, which would result in the expiration of the FCPP lease and associated rights-of-way, but would not result in the expiration of BNCC's Navajo Mine Lease; and
- (c) any environmentally preferable alternatives that may be identified in accordance with 40 CFR Part 1500 and 43 CFR Part 46.

The purpose of the public scoping process is to determine relevant issues that could influence

the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS and related compliance efforts. The final range of reasonable alternatives to be considered will be determined based in part on the comments received during the scoping process.

At present, OSM has identified the following preliminary issues and potential impacts:

- Threatened and endangered species, including the Razorback sucker (*Xyrauchen texanus*), Colorado pikeminnow (*Ptychocheilus Lucius*), and Southwestern Willow Flycatcher (*Empidonax traillii extimus*);
- Air quality and climate change;
- Surface and ground water quality;
- Environmental Justice considerations;
- Cultural and historic resources;
- Biological resources;
- Visual resources;
- Public Health;
- Socioeconomics; and
- Noise and vibration.

V. Public Comment Procedures.

In accordance with the CEQ's regulations for implementing NEPA and the DOI's NEPA regulations, OSM solicits public comments on the scope of the EIS and significant issues that it should address in the EIS.

Written comments, including email comments, should be sent to OSM at the addresses given in the **ADDRESSES** section of this notice. Comments should be specific and pertain only to the issues relating to the proposals. OSM will include all comments in the administrative record.

If you would like to be placed on the mailing list to receive future information, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, above.

Hopi and Navajo interpreters will be present at meetings on the Hopi and Navajo Reservations.

If you require reasonable accommodation to attend one of the meetings, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting.

Availability of Comments

OSM will make comments, including name of respondent, address, phone number, e-mail address, or other personal identifying information, available for public review during normal business hours. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – will be publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public review to the extent consistent with applicable law.

Dated: June 8, 2012

Allen D. Klein /s/

Allen D. Klein

Regional Director, Western Region

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